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POLICIES OF APARTHEID OF THE GOVERNMENT OF SOUTH AFRICA

Letter dated 11 June 1992 from the Permanent Representative of South Africa to the United Nations addressed to the Secretary-General

I have the honour to inform you that the Commission of Inquiry regarding the Prevention of Public Violence and Intimidation has recently presented its second interim report to State President De Klerk.

The report, a copy whereof is enclosed, addressed the causes of the violence (para. 2.1-2.4) and recommended steps to curb violence (para. 3.2.1-3.2.9). An accompanying press statement by the Chairman of the Commission, the Honourable Mr. Justice R. J. Goldstone, released on 27 May 1992, is also enclosed.

The Commission will continue to inquire into the phenomenon of violence and to investigate incidents and situations of violence in furtherance of its mandate.

I should be grateful if the present letter and its enclosures could be circulated as an official document of the General Assembly under item 33 of the preliminary list.

(Signed) V. R. W. STEWARD
Ambassador
Permanent Representative

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Annex I

GOLDSTONE COMMISSION: SECOND INTERIM REPORT

The Commission of Inquiry regarding the prevention of public violence and intimidation has the honour to present its second interim report.

1. INTRODUCTION

1.1 The Chairman and members of the Commission have been appointed for three years. With regard to the broader issue of public violence and intimidation, the Commission therefore initially expected to have three years within which to report and make substantive recommendations relating to the curbing of violence. However, the significant escalation of violence in recent weeks has caused the Commission to re-evaluate its role and proceedings. It has decided to submit this further interim report now rather than wait for the reports of Committees that are now still holding inquiries. In this report, however, the Commission has endeavoured not to anticipate or prejudge any of the disputed matters currently under investigation. The Committees still holding inquiries are:

(a) Thokoza;

(b) Involvement of the South African Defence Force;

(c) Taxi and Train Violence;

(d) Mass Demonstrations.

1.2 With regard to specific incidents of violence, the Commission's approach has been to inquire into paradigm situations where, on the face of it, the symptoms are common to other areas of violence. The Commission has at all times been convinced, and remains so, that factual findings cannot be made against individuals, groups or organizations on the basis of untested evidence. For this reason the hearings of the Commission and of committees of the Commission have been held in public and witnesses have been subjected to cross-examination by lawyers representing interested parties. This procedure, by its nature, is cumbersome and time-consuming. The Thokoza Committee, for example, has been sitting for four months already and will require some further weeks to complete its public hearings.

1.3 From the inception of its deliberations, the Commission has held the view that one of its most important functions is to act as a catalyst in the process of transforming the Police Force into a body that has the confidence, respect and cooperation of the vast majority of the people of South Africa. The Committee established to inquire into the policing of mass demonstrations was conceived as the point of entry - the first of a number of inquiries that would investigate and make recommendations on important issues relating to policing in general. If the Commission continues to be immersed in an increasing number of inquiries into incidents of violence, this important function will inevitably be delayed.

1.4 Then there is the issue concerning the safety of witnesses who testify before the Commission. The murder of the leader of the "Black Cats" in Wesselton and the apparent revenge murder of the mother of a renegade "Black Cat" witness in the same township highlight this problem. These murders took place during the course of the investigation into the "Black Cats" and are therefore likely to severely diminish the willingness of members of the public to come forward and testify.

1.5 In the above circumstances, a reconsideration of the role and functions of the Commission has become urgent and inevitable. In particular, the Commission has been forced by circumstances to report now on conclusions reached by it at this stage. It would have preferred not to do so at what is clearly a premature juncture in its work. However, the alternative would be to continue inquiring with judicial detachment when urgent steps are required to contain the violence.

1.6 The Commission in dealing with the matters contained in this report makes no apology for doing so at this stage. However, it does request the understanding and appreciation of the entire public of South Africa that a report at this time on these issues is being furnished only some six months after the Commission was established. If the conclusions set out below are flawed, that must be ascribed to incomplete information and the failure by persons or organizations with relevant information to have placed it before the Commission.

2. THE CAUSES OF VIOLENCE

2.1 The words "third force" have been used by many people in South Africa in many contexts and with no consistent meaning. The phrase has been used frequently with reference to a sinister and secret organization or group that commits acts of violence in furtherance of some nefarious political aim. Then, again, it was recently used by the President of the African National Congress to describe the alleged activities of 32 Battalion, the CCB, "hit squads" and the police, i.e., identifiable groups or organizations.

2.2 The Commission has received no evidence which would suggest that there is a third force of the first type mentioned in 2.1, i.e., a sinister and secret organization orchestrating political violence on a wide front. The allegations concerning State institutions are dealt with later in this report.

2.3 The evidence which thus far has been placed before the Commission indicates rather that the causes of the violence are many and complicated. In historical sequence they include:

2.3.1 The economic, social and political imbalances amongst the people of South Africa. These are the consequences of three centuries of racial discrimination and over 40 years of an extreme form of racial and economic dislocation in consequence of the policy of apartheid. The consequences of these policies on the Black people of South Africa are well known and documented. It is not necessary or appropriate even to attempt to set them out in this report.

2.3.2 A police force and army which, for decades, have been the instruments of oppression by successive White Governments in maintaining a society predicated upon racial discrimination. This involves a police force and an army that for the majority of South Africans have not been community-based or orientated. For many South Africans, the police and the army are not perceived as fair, objective or friendly institutions.

2.3.3 The unexpected and sudden legalizing of large and predominantly Black-supported political organization. This must be seen against a background of a lawful and Government-supported Inkatha Freedom Party having been at war with a largely underground African National Congress and its front organizations. With rapid change the Government, again suddenly unexpectedly, resolved to negotiate in public and in private with organizations that were perceived, for good reason or bad, as the enemy of Inkatha, of White South Africans and, most important, of the police and army.

2.3.4 For obvious reasons, many already mentioned above, there is a climate of political intolerance, particularly in the Black community. The sudden emergence of powerful national political parties have not resulted in any improvement in the lives of Black South Africans. On the contrary, the deterioration of our economy has, if anything, made all South Africans, and especially those in the lower income groups, economically poorer.

2.3.5 Again, for obvious reasons, the aforegoing factors have created a situation in which violence has found a fertile breeding ground. In particular, it is a situation in which criminal elements within the community have found themselves in a position where the Police Force is inadequately manned and inadequately motivated. The presence of single-sex hostels and/or squatter settlements in a large number of centres has enabled political groups to set concentrations of support and arms caches for use in township violence. Similarly, other groups have total control over certain residential areas in black townships.

2.3.6 As far as political violence is concerned, the Commission has no doubt at all that both the African National Congress and Inkatha Freedom Party members and supporters have been guilty of many incidents that have resulted in the deaths of and injuries to large numbers of people. Both organizations have been over-hasty in accusing the other of being the cause of such conduct. Each has been tardy, especially at the level of top leadership, in taking adequate and effective steps to stop the violence by imposing discipline and accountability among its membership. The investigations of the Commission thus far do not enable it to apportion blame, even if that dubious exercise were relevant.

2.3.7 A history over some years of State complicity in undercover activities, which include criminal conduct. Those activities have enabled critics of the Government and others, fairly or unfairly, to place the blame for much of the current violence at the door of the security forces. That and the well-documented criminal conduct by individual members of the South African Police and the KwaZulu Police exacerbate the perception of so many South Africans that the Government or its agencies are active parties responsible for the violence. As with the political parties referred to above, our recent history has been one in which the Government has failed to take sufficiently firm steps to prevent criminal conduct by members of the security forces and the police and to ensure that the guilty are promptly and adequately punished.

2.4 It is little wonder, therefore, that the situation of political violence and intimidation in South Africa is so widespread and its causes so many and so complex.

3. STEPS TO CURB VIOLENCE

3.1 No good purpose will be served by merely conducting further inquiries in order to apportion the blame for past violence. It must be accepted that individual policemen, African National Congress supporters and Inkatha Freedom Party supporters have been guilty of serious criminal conduct in this regard. If we are to curb this violence, then all our efforts must be harnessed in creating the means of doing so.

3.2 The Commission recommends at this stage that the following steps can and should be taken immediately:

3.2.1 The deployment of an effective police presence in local communities who are able to work in close cooperation with local Dispute Resolution Committees established in terms of the Peace Accord. If they are perceived by the local communities as working with their own representatives, there is some prospect that they will be perceived as a friendly force and will begin to gain communal confidence and support.

3.2.2 The new Division of Internal Stability would appear to be the only suitable branch of the South African Police for such work. This branch should also work in cooperation with Justices of the Peace as soon as that office has been created in terms of the Peace Accord.

3.2.3 The investigative functions of the Commission will continue to play an important role in relation to the curbing of ongoing violence. In this regard the Commission should as soon as possible be granted adequate means and procedures for offering protection to witnesses who testify before it or its committees.

3.2.4 The widely held view by a large number of people in KwaZulu and neighbouring areas that the KwaZulu Police are a private army of the Inkatha Freedom Party is a matter of great concern in relation to the curbing of violence in those areas. No less disturbing is the evidence that has been given concerning unlawful activities by senior members of the KwaZulu Police. As some of these allegations are at present under investigation by a committee of the Commission, it would not be proper to comment further on this matter at the present time. Criminal charges are at present being investigated by the Commissioner of the KwaZulu Police in consequence of evidence placed before the Committee about the false identity given to a member of that police force.

3.2.5 Recent activities by members of Umkhonto we Sizwe are a matter for concern. It is significant in this regard that a Transvaal leader of that organization admitted to a committee of the Commission that it was unable to control all its members.

3.2.6 Organizations whose members are responsible for violence have a heavy responsibility to control and impose discipline upon their members. This applies no less to the South African Defence Force and Police than to the African National Congress and the Inkatha Freedom Party. All of those organizations should establish committees to be responsible for immediately investigating and reporting to the Peace Committee and the Commission on allegations of public violence.

3.2.7 Hostels are common to most of the worst areas of violence. All hostels should immediately be adequately and securely fenced. A strong and efficient police presence should ensure that no arms are taken in or out of hostels. It should also be in a position to protect all hostel dwellers from external attack.

3.2.8 The Commission is convinced that the carrying of any dangerous weapons in public should be outlawed - whether in respect of political meetings or at any other place. In Natal, it is predominantly members of the Inkatha Freedom Party who insist on this unacceptable practice. Other Zulu men do not find it necessary to do so, either for cultural or any other reasons. The Commission finds it quite unacceptable that even the limited ban on the carrying of weapons to political meetings has been ignored by the Inkatha Freedom Party on at least one occasion during a march through the streets of Johannesburg. This public

flaunting of the law in the presence of a large South African Police presence is unfortunate and should not be allowed to occur again in the future. Steps should be taken urgently to prohibit the carrying in public of any dangerous weapons at any time at all. This constitutes provocative and unacceptable behaviour in any decent society. It is calculated, furthermore, to create a climate of violence.

3.2.9 The Commission can assure you that all information received by it has already been publicly investigated or is the subject of a current public inquiry. In the result, no information has been received by the Commission that could enable it to make any findings relating to a systematic or nationally organized campaign of violence. It is a cause for comment that, notwithstanding the absence of evidence, political leaders, especially in the African National Congress and Inkatha Freedom Party, have frequently made wide-ranging allegations placing the blame for violence on other political parties and on the State security forces. The violence is an ongoing phenomenon. If and when evidence is placed before the Commission it will be thoroughly and publicly investigated. Unless and until that is done the Commission can only deprecate allegations that are calculated to exacerbate the climate of violence.

Annex II

PRESS RELEASE BY THE HONOURABLE MR. JUSTICE R. J. GOLDSTONE, CHAIRMAN OF THE COMMISSION OF INQUIRY REGARDING THE PREVENTION OF PUBLIC VIOLENCE AND INTIMIDATION

1. The Commission has been conducting inquiries into violence in three areas of Natal, viz., Imbali, Empangeni and Umlazi; and also three areas in the Transvaal, viz., the Greater Soweto area, Alexandra Township and the Vaal. In February the Commission's report on the violence in Mooi River/Bruntville was made public.

2. The Commission has no doubt that the primary cause of the violence in all of these areas is the political battle between supporters of the African National Congress and of the Inkatha Freedom Party. Both sides resort to violence and intimidation in their attempts to gain control over geographic areas.

3. The South African Police and Defence Force have become involved in attempts to stop the violence and investigate criminal conduct. On many occasions that intervention has resulted in allegations being made by both Inkatha Freedom Party and African National Congress supporters of misconduct and bias on the part of the Security Forces. Allegations have also been made of complicity and even instigation of some of the violence by the Security Forces. A number of these allegations are currently the subject-matter of investigation by the Commission and in proper cases any further allegations will be investigated by the Commission.

4. Even if the allegations against members of the Security Forces prove to be justified, such misconduct would not have been possible but for the ongoing battle between the African National Congress and the Inkatha Freedom Party.

5. The Commission is of the view that the current violence which is causing so much loss of life, personal injuries, damage to property and misery to hundreds of thousands of people can not abate unless and until the leaders and supporters of the Inkatha Freedom Party and the African National Congress agree:

(a) To abandon violence and intimidation as political weapons;

(b) To the dispossession of their supporters of all weapons unlawfully possessed for purposes of violence or intimidation;

(c) To take effective disciplinary measures against those of their supporters who act contrary to (a) and (b);

(d) To recognize the right of all South Africans in all areas of South Africa to support any political party of their choice openly and freely.

6. In the event of these steps being taken by the African National Congress and Inkatha Freedom Party, then government agencies, both national and regional in all areas and particularly in KwaZulu, must fairly and without favour support, encourage and protect open and lawful political debate and activity by all political parties.

7. In the circumstances the Commission has decided that no good purpose would be achieved by setting up multiple committees to inquire into specific allegations of past violence and intimidation in the areas in question. Such inquiries would necessarily be extremely lengthy and costly. Inquiries into past violence would also exacerbate tensions and anger in the areas in question and would therefore in no way serve to curb violence and intimidation.

8. The Commission would like to stress that no one other than the Inkatha Freedom Party and the African National Congress has the power effectively to curb the violence and intimidation being perpetrated by their respective supporters. They should resolve to do so and to that end to harness fully and effectively the structures of the National Peace Accord.

9. The Commission will continue to inquire into the phenomenon of violence and to use its powers to investigate incidents and situations of violence and intimidation which may enable it to ascertain the cause or causes of these phenomena and to carry out its other functions in terms of the provisions of the statute under which it was established. Current inquiries being conducted by the Commission relate to:

(a) The violence and intimidation in Thokoza, including the conduct of 32 Battalion;

(b) The allegations of the Weekly Mail concerning the sponsoring of violence by the South African Defence Force, the training of 200 Inkatha members at the Caprivi in 1986 and incidents of violence involving the KwaZulu Police;

(c) The train violence;

(d) The taxi wars;

(e) The alleged conduct of the Criminal Information Service in the Southern Transvaal in instigating violence;

(f) The manner and effect of the dispossession of persons in Soweto, Alexandra and the Vaal of their houses and places in hostels, ways of addressing their loss including the payment of compensation;

(g) The conduct and policing of mass demonstrations, marches and picketing.

10. The Commission is considering various other investigations in furtherance of its mandate and in striving for a community free from violence and intimidation. Such investigations will be announced and commenced in due course.

27 May 1992